

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SPIRIT AEROSYSTEMS, INC.,

Plaintiff,

v.

W. KENNETH PAXTON, *in his official capacity as Attorney General of Texas, JANE NELSON, in her official capacity as Secretary of State of Texas,*

Defendants.

Civil Action No. 1:24-cv-00472-RP

UNOPPOSED MOTION TO EXTEND DECLARATORY RELIEF AND PERMANENT INJUNCTION TO DEFENDANT JANE NELSON

Plaintiff Spirit AeroSystems, Inc. (“Spirit”) hereby moves this Court to extend the declaratory and injunctive relief granted as to Defendant Paxton to Defendant Jane Nelson, in her official capacity as Secretary of State of Texas. Defendant Nelson has advised, through counsel, that she does not oppose this motion. In declining to oppose this motion, Defendant Nelson does not waive her right to appeal any order or final judgment granting declaratory and injunctive relief as to her and reserves all objections thereto. In support of this Motion, Spirit shows that:

1. Plaintiff Spirit filed this action against Defendants Paxton and Nelson on May 1, 2024.
2. The next day, Plaintiff Spirit, through counsel, immediately emailed the waiver of service forms with a copy of the complaint to counsel for Defendant Paxton and Defendant Nelson. Counsel for Defendant Paxton returned the signed waiver of service form to counsel for Plaintiff Spirit on May 7, 2024. ECF No. 10.

3. On June 6, 2024, Plaintiff Spirit and Defendant Paxton cross-moved for summary judgment in this matter.

4. At the time Plaintiff Spirit and Defendant Paxton cross-moved for summary judgment, Defendant Nelson had not yet accepted service of the complaint against her in the above-captioned matter. Defendant Nelson returned her signed waiver of service form to Plaintiff Spirit on July 24, 2024, while summary judgment briefing by Plaintiff Spirit and Defendant Paxton was already underway. ECF No. 28. Thereafter, Defendant Nelson filed an answer denying certain of Plaintiff Spirit's allegations and the requested relief. ECF No. 33.

5. On December 9, 2024, this Court granted the motion of Plaintiff Spirit for summary judgment, declared the Texas Request to Examine Statute, Tex. Bus. Orgs. Code §§ 12.151-12.156 (the "RTE Statute"), facially unconstitutional in violation of the Fourth Amendment to the U.S. Constitution, and enjoined Defendant Paxton's use of the RTE Statute against Spirit. ECF No. 56. The Court's judgment as to Defendant Paton was issued that same day. ECF. No. 58.

6. The Court's final judgment stated that "nothing remains to resolve" in this case, and therefore ordered it "**CLOSED.**" ECF No. 58.

7. While Defendant Nelson, through counsel, objects to the Court's legal ruling on the motion for summary judgment filed against Defendant Paxton, she recognizes that the Court's reasoning and rational in that ruling apply with equal force of law to any action by her as Secretary of State, or by her agents, to de-register a company from doing business in Texas for failure to comply with the RTE Statute.

8. Accordingly, Defendant Nelson does not oppose entry of declaratory and injunctive relief against her in her official capacity on the same terms as that entered against Defendant Paxton. Defendant Nelson lack of opposition to entry of such relief does not represent Defendant

Nelson's agreement with or consent to the holdings set forth in this Court's ruling on the motion for summary judgment or final judgment against Defendant Paxton, and is without waiver of Defendant Nelson's right to appeal any and all aspects of the Court's rulings and orders.

CONCLUSION

For the foregoing reasons, Spirit respectfully requests that the Court extend the declaratory and injunctive relief granted as to Defendant Paxton to Defendant Nelson. A proposed Order is submitted herewith.

Dated: December 20, 2024.

Respectfully submitted,

/s/ Matthew T. Martens

McCARTY LAW PLLC
Darren L. McCarty (SBN: 24007631)
darren@mccartylawpllc.com
1410B West 51st Street
Austin, TX 78756
Telephone: (512) 827-2902

WILMER CUTLER PICKERING HALE
AND DORR LLP
Matthew T. Martens (*pro hac vice*)
matthew.martens@wilmerhale.com
Jaclyn N. Moyer (*pro hac vice*)
jaclyn.moyer@wilmerhale.com
2100 Pennsylvania Avenue, NW
Washington, DC 20037
Telephone: (202) 663-6921

*Attorneys for Plaintiff Spirit
AeroSystems, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that I have this date filed the foregoing UNOPPOSED MOTION TO EXTEND DECLARATORY RELIEF AND PERMANENT INJUNCTION TO DEFENDANT NELSON, via the Court's CM/ECF system, which will automatically give notice to all counsel of record.

This 20th day of December, 2024.

/s/ Matthew T. Martens

WILMER CUTLER PICKERING HALE
AND DORR LLP
Matthew T. Martens (*pro hac vice*)
matthew.martens@wilmerhale.com
2100 Pennsylvania Avenue, NW
Washington, DC 20037
Telephone: (202) 663-6921

*Attorney for Plaintiff Spirit
AeroSystems, Inc.*